

Application No. 09/807,403
Amendment dated May 16, 2007
Reply to Office Action of March 22, 2007

REMARKS/ARGUMENTS

Applicants have reviewed and considered the Final Office Action mailed on March 22, 2007, and the references cited therewith. Claims 2 and 14 have been amended. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

Request for Withdrawal of Finality of Office Action

Before responding to the rejections of the current Office Action, Applicants respectfully request that the Primary Examiner withdraw the finality of the Office Action.

The MPEP provides that a second rejection should be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an IDS filed during the period set forth in 37 CFR 1.97(c). MPEP 706.07(a). In response to the prior Office Action, Applicants noted that the Examiner did not explain how the cited references taught every element of claim 8, particularly a sensor operable to detect when a canister is full. In the Office Action now pending, the Examiner explains that the rejection of claim 8 had been combined with the rejections of claims 5-7, and that "these rejections" have now been separated "for clarity." Unfortunately, the Examiner's response simply disregards the fact that the scope of claim 8 is not the same as claims 5-7 and the prior rejections of claims 5-7 do not support the rejection of claim 8. Moreover, the current Office Action goes well beyond merely separating the prior rejections for clarity. In fact, the current Office Action presents an entirely new ground of rejection for claim 8 in which the Examiner combines two references in a manner not described in the prior Office Action. Applicants' amendments certainly did not necessitate the Examiner's new ground of rejection. Accordingly, the finality of the current Office Action is premature and should be withdrawn.

Application No. 09/807,403
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Claim Rejections – 35 U.S.C. § 103

Claims 1, 3, 4, and 10-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over GB 2,307,180 A ("Hunt"). Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hunt in view of U.S. Patent No. 5,944,703 ("Dixon"). Claims 5-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hunt in view of U.S. Patent No. 4,051,431 ("Wurster").

Applicants appreciate the Examiner's comments clarifying the application of Hunt to claim 1. Nonetheless, Applicants traverse the rejection of claim 1 for substantially the same reasons as presented in response to the prior Office Action. In particular, claim 1 is allowable because Hunt fails to teach or suggest "a shut-off valve which closes an outlet from the canister when it is full." The Office Action alleges that the spigots 7A and 7B in Hunt are merely shut-off valves that control the release of a liquid or gas, but this is incorrect. Nowhere does Hunt suggest that spigot 7A or 7B is a shut-off valve, much less that it controls the release of a liquid or gas. In fact, the teachings of Hunt do nothing to indicate that the spigots are anything more than a connector fitting or outlet. As the Office Action acknowledges, the transducer 105 shuts off the working of the pump when the liquid level in the canister occludes the filter, but shutting off the pump clearly is not equivalent to closing an outlet from the canister. Thus, regardless of whether or not spigots 7A and 7B are actually shut-off valves as the Office Action concludes, the Office Action fails to demonstrate that the spigot 7A or 7B closes when the canister is full, as claimed in claim 1. Accordingly, the rejection of claim 1 under § 103 is improper, and Applicants respectfully request that the Examiner withdraw the rejection of claim 1 and its dependents.

Applicants also appreciate the Examiner's comments clarifying the application of Hunt and Dixon to claim 2. Applicants have amended claim 2 to clarify that the flow limiting valve of claim 2 is not merely a check valve that prevents fluid from flowing back into the canister. Rather, the flow limiting valve of claim 2 prevents the flow in the tube

Application No. 09/807,403
Amendment dated May 16, 2007
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from exceeding an established rate, which may be adjusted to provide different desired levels of flow in the system. Thus, notwithstanding the patentability of claim 1, claim 2 as amended is allowable because neither Hunt nor Dixon teaches or suggests "a flow limiting valve disposed between the canister and the suction source that prevents flow in the tube from exceeding an established rate." Accordingly, Applicants respectfully request that the Examiner allow claim 2.

Claim 8 is allowable as amended for the same or analogous reasons as set forth above for claim 1.

Finally, Applicants respectfully disagree with the Office Action's application of Hunt to claim 14. The Office Action rejects claim 14 relying in part upon the use of transducers and a pressure relief valve in Hunt to provide a pressure regulating "means," but this logic ignores the fact that the claim 14 does not claim all pressure regulating "means." Claim 14 recites a "pressure regulator" -- a specific device that controls the flow of fluid between the canister and the suction point. In contrast, Hunt teaches only that the pressure regulating "means" identified by the Office Action controls the operation of the portable pump (i.e. the suction point), which is not possible when the suction point is a wall suction point. Thus, Hunt does not show the invention claimed in claim 14 in as complete detail as is contained in the claim, and the rejection of claim 14 based on Hunt is improper. Nonetheless, Applicants have amended claim 14 to correct formal defects and to clarify the relationship between the regulator and the wall suction point. Accordingly, Applicants request that the Examiner allow claim 14 and its dependents.

Application No. 09/807,403
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CONCLUSION

If a Petition for Extension of Time under 37 C.F.R. 1.136(a) or an additional Petition for Extension of Time under 37 C.F.R. 1.136(a) is required, the petition is herewith made and the Commissioner is authorized to charge the required fee to deposit account number 50-2816.

Applicants submit that the pending claims are in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance for these claims. The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment made with this Office Action, to Deposit Account Number 50-2816.

Respectfully submitted,



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